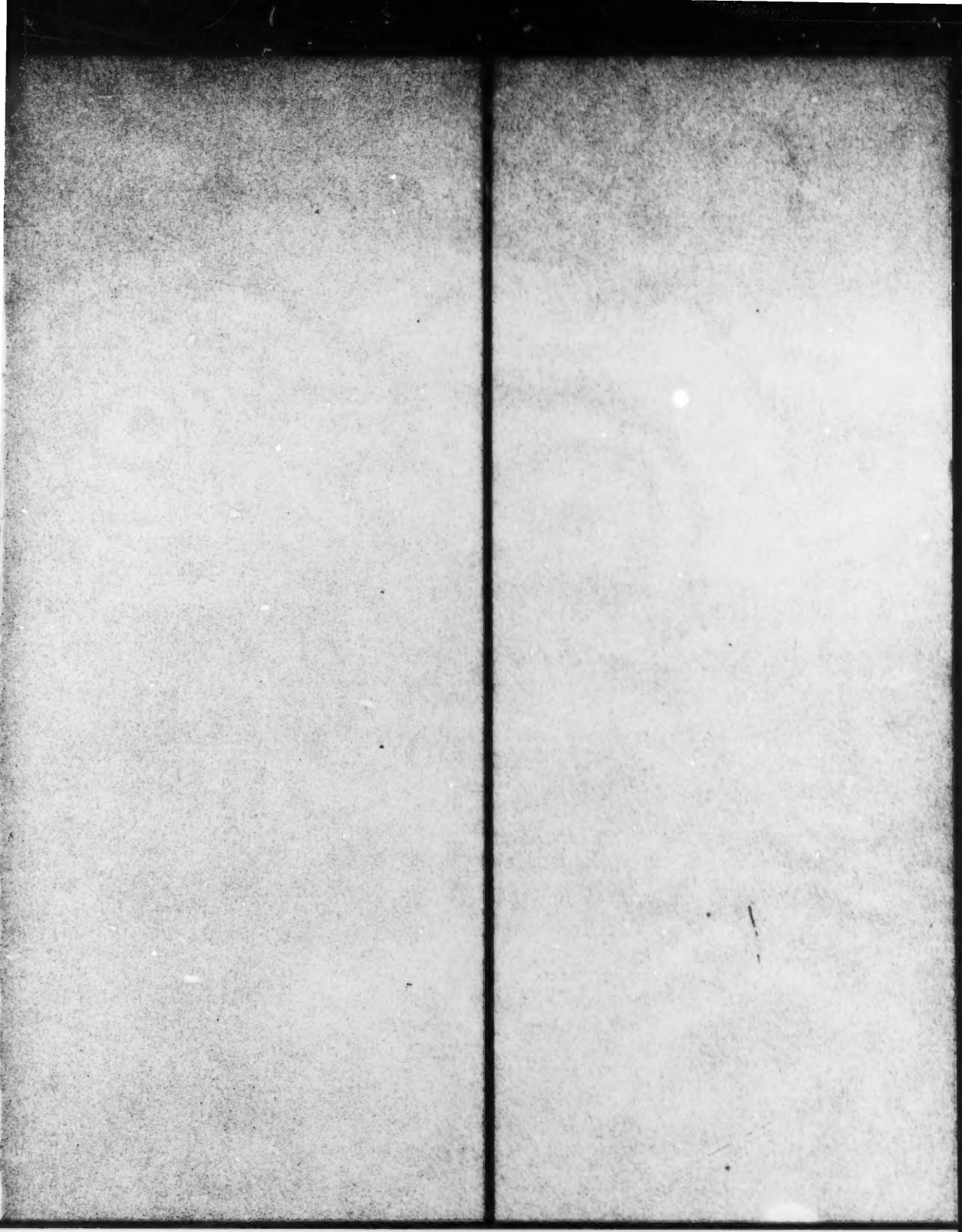

46th Annual Report

MOTOR CARRIER COMMISSION

PROVINCE OF BRITISH COLUMBIA

86-06205/

46th Annual Report
Covering the Licence-year Ended
February 28, 1986

Annual Report of the
Motor Carrier Commission

Pursuant to Section 34
of the Motor Carrier Act

Queen's Printer for British Columbia©
Victoria, 1986

VANCOUVER, BRITISH COLUMBIA

To His Honour the Lieutenant Governor in Council
of the Province of British Columbia

MAY IT PLEASE YOUR HONOUR:

SIR: We respectfully transmit herewith the Forty-sixth Annual Report, pursuant to the provisions of section 34 of the *Motor Carrier Act*, covering the licence-year ended February 28, 1986.

MOTOR CARRIER COMMISSION

GERARD M. MORRIS, *Acting Chairman*

IAN W. CRAIG, *Commissioner*

GEORGE MUSSALLEM, *Commissioner*

REPORT OF THE MOTOR CARRIER COMMISSION, 1985/86

GENERAL

The Motor Carrier Commission derives its authority from a provincial statute, the *Motor Carrier Act*, and by delegation from the Government of Canada pursuant to a federal statute, the *Motor Vehicle Transport Act*.

Section 31 (1) of the *Motor Carrier Act* provides for the appointment of three persons to the Commission by the Lieutenant Governor in Council. The present members of the Commission are Acting Chairman G. M. Morris, Commissioner I. W. Craig, and Commissioner G. Mussallem.

It is the duty of the Commission to regulate motor carriers with the objects of promoting adequate and efficient service and reasonable and just charges for it, and of promoting safety on the public highways, and of fostering sound economic conditions in the transportation business in the Province, and the Commission may make investigations, inquiries, regulations and orders it thinks necessary for the carrying out of those objects.

The Commission regulates motor carriers which operate over the public highways of this Province through a system of licensing which has been in effect for approximately 50 years. Applications are filed with the Commission's Motor Carrier Branch, where they are published, then investigated, before being submitted to the Commission for decisions. The Commission takes into consideration all of the information it has before it, but at times may require further investigation through the medium of public hearings before rendering decisions.

APPLICATIONS

Applications filed with the Commission continued to grow in number this past licence year with a total being filed of 3,304. Of these 1,448 were for additional vehicles, while 1,856 were for new authority, alteration to existing authority, or transfer, all of which generally require further investigation before being submitted to the Commission for adjudication.

HEARINGS

During the licence year under review, the Commission conducted 69 hearings, including 26 public hearings, 34 reviews of previous decisions, and 8 Show Cause hearings. While most of its public hearings were held in the Commission's new hearing room in Burnaby, B.C., some were scheduled for out-of-town locations including Victoria, Powell River, Kamloops, Courtenay, Campbell River, Vernon and Fort St. John. In addition, the Commission participated in a joint hearing with the Ontario Highway Transport Board in Toronto, Ont.

REVENUE

The statement of revenue derived from permit and licence fees paid during the year under review and from miscellaneous sources discloses a total of $1,343,868, which was paid into general revenue. This amount is $82,690 more than the total revenue generated in the previous year.

In addition, a total of 2,886 charges for infractions of the *Motor Carrier Act* and Regulations were laid by weighscale personnel who assist the Commission with com-

pliance matters which, if not contested — and most are not — would result in payment being made into Provincial Courts of approximately $240,000. It is estimated, as well, that an amount probably equal to that figure was paid under the same conditions as a consequence of charges laid by other enforcement agencies, including the RCMP and municipal police forces, which also assist the Commission with respect to compliance.

Statistics on revenue, the number of permits issued, and a comparison of types of licences issued, are presented in Appendix A attached hereto.

EXPO 86

During the licence year being reported on, the Commission was instrumental in the formation of an Expo 86 Motor Carrier Committee, which included representatives from the transportation and hospitality industries, City of Vancouver, City of Vancouver Police Department, Ministry of Finance, Insurance Corporation of British Columbia, BC Transit and Expo 86, as well as the Motor Carrier Branch.

The purpose of the Committee was to ensure that visitors to the Province during the Expo period, as well as our own citizens, would have available to them adequate transportation services, particularly those provided by buses and taxis. This was to be accomplished by identifying beforehand, with the view to eliminating as much as possible, potential problems which might occur with respect to the movement of passengers to and from the Expo site, and generally within the Lower Mainland during the Expo period.

The Committee report in this matter was subsequently made available to other concerned parties to assist them in the overall planning for Expo.

STATEMENT OF MECHANICAL CERTIFICATION OF VEHICLES

The Commission continues to enforce the policy instituted in 1984 requiring successful applicants for motor carrier licence authority, either temporary or permanent, before being issued such authority, to file a statement certifying that the vehicles intended to be utilized are in a safe operating condition. Persons signing such statements indicate, as well, that they are aware of the requirements of Regulation 6.33 of the *Motor Carrier Act* which states that it is the duty of the licensee to maintain his licensed vehicle(s) in a safe operating condition. This requirement has had a desirable effect in that it makes motor carriers more aware of their very serious responsibility insofar as public safety is concerned.

MOTOR CARRIER BRANCH APPOINTMENTS

Mr. E. D. Tyson was appointed Superintendent of Motor Carriers effective March 11, 1985. He succeeds Mr. A. R. Fitch, who retired from that position in December of 1984.

Mr. Tyson joined the rates department of the Motor Carrier Branch in 1967, and was appointed Deputy Superintendent in January 1975, in which position he served until December 21, 1984, when he became Acting Superintendent.

Mr. M. Rowden, who joined the Branch as an Inspector in 1971, was appointed to the position of Deputy Superintendent of Motor Carriers effective August 14, 1985. Mr. Rowden served as Manager of Passenger Licensing and Safety for a period of approximately four years before his most recent promotion.

MOTOR CARRIER BRANCH COMPLIANCE DEPARTMENT ACTIVITIES

Among its other duties, the compliance department of the Motor Carrier Branch investigates complaints which originate with the motor carrier industry, the general public, the Better Business Bureau, and various government agencies, provincial, federal, and international.

During the licence year being reported a total of 285 formal complaints were investigated, which resulted in files being opened. There were also a number of files re-activated. In addition, those complaints brought to the attention of the Branch by telephone were attended to.

The department again participated, together with a number of other enforcement agencies, in a series of operations known as "road checks," in which approximately 5,900 vehicles, including buses and taxis, were examined for roadworthiness, proper licensing, and correct documentation. "Road checks" have been found to be a most effective compliance tool, and it is anticipated that they will be continued, and may be intensified.

The Manager of the compliance department, and/or his staff, again gave instructions on the complexities of the *Motor Carrier Act* and Regulations to seminars at various locations, and training sessions at the Justice Institute of British Columbia. Attendees included RCMP and local police officers, as well as weighscale personnel and other staff members of the Ministry of Transportation and Highways. Such educational sessions have resulted in improved compliance procedures.

This licence year, the department co-operated to a greater extent with other compliance agencies from a number of Canadian provinces, as well as the Interstate Commerce Commission in the U.S.A., by assisting with investigations, exchanging information and technical data, as well as serving summonses.

TARIFFS AND TIME SCHEDULES

Licensed motor carriers, pursuant to the *Motor Carrier Act* and Regulations attached thereto, are required to file their current rate schedules with the Commission, and to maintain those rates in assessing charges for services provided. In addition, those licensed carriers who operate on a time schedule must file with the Commission schedules indicating their departure and arrival times from the termini on their routes. Extraprovincial and international rates are not regulated by the Commission, although it has the authority to do so under the Federal *Motor Vehicle Transport Act*.

The following table sets out the number of tariff and time schedule applications filed during the current licence year compared to previous years:

The Number of Applications Filed During Licence-years Ending in the Month of February of Each Year Referred to

	1982	1983	1984	1985	1986
Rate	554	444	336	278	272
Time	19	21	21	44	34

APPENDIX A

SUMMARY OF TOTAL REVENUE FOR THE LICENCE-YEAR 1985/86

	$
Licence fees	1,295,187
Temporary permits	28,769
Miscellaneous	19,912
	1,343,868

REVENUE—ANNUAL COMPARISONS

The following is a comparative table by years of gross revenue:

Kind of Licence	1982/83	1983/84	1984/85	1985/86
	$	$	$	$
Passenger (buses)	138,096.61	134,563.61	145,278	165,686
Passenger (taxis)	118,101.11	114,563.62	125,279	147,517
Public and limited freight	884,239.47	871,945.30	900,291	981,984
Permits	19,459.37	21,633.70	17,703	28,769
Miscellaneous	56,754.50	62,966.45	72,627	19,912[1]
Totals	1,216,651.06	1,205,672.68	1,261,178	1,343,868

[1] The reduction in miscellaneous revenue is the result of a change in accounting procedures recommended by the auditors, which more accurately identifies revenue from all sources.

TEMPORARY PERMITS

Permits grant temporary exemption from the *Motor Carrier Act* of the necessity of obtaining a licence (operating authority) or alteration of licence, with respect to the operation of a vehicle in the manner stated therein. The holder of a temporary permit is subject to the safety provisions of the *Motor Carrier Act* and Regulations to the same extent as if he were operating a licensed vehicle. The issuance of permits is at the discretion of the Commission and allows for immediate response to be made to the requirements of trade and industry or the general public.

The following is a summary of the number of temporary permits issued during the year 1985/86:

Class II permits (for temporary operation as a public or limited vehicle not exceeding 92 days)	9,489
Class III and Class IV permits (for operation of a licensed public or a limited vehicle temporarily in a manner other than is authorized by the licence, or pending consideration of an application for licence, renewal, alteration, or transfer of a licence, etc.)	30,051
Special temporary permits (issued for the transportation of household goods to carriers from provinces having reciprocity agreements with the Province of British Columbia respecting commercial motor vehicle licences)	328
Total	39,868

NUMBER OF LICENCES — ANNUAL COMPARISONS

The following table, by years, gives the number of licences for the various classes issued:

Kind of Licence	Number of Licences, New and Renewed			
	1982/83	1983/84	1984/85	1985/86
Passenger (buses)	2,221	2,246	2,191	2,131
Passenger (taxis)	2,363	2,388	2,228	2,284
Public freight	25,289	25,340	27,036	27,336
Limited freight	2,562	2,589	3,088	3,138
Totals	32,435	32,563	34,543	34,889

APPENDIX B

PROVINCE OF BRITISH COLUMBIA
MOTOR CARRIER COMMISSION

11-85

In the Matter of the *Motor Carrier Act*, R.S.B.C. 1979, Chapter 286, and Amendments Thereto and Regulations Thereunder; and in the Matter of Application No. 2012/84 of Chaput Logging Ltd.

Before: GERARD M. MORRIS, *Chairman*, IAN W. CRAIG, *Commissioner* and GEORGE MUSSALLEM, *Commissioner.*

Dated the 5th day of March 1985.

ORDER

The application of Chaput Logging Ltd. (the applicant), published as No. 2012/84, came before the Motor Carrier Commission for hearing on February 25, 1985, in Burnaby, B.C.

The applicant, which presently holds licence authority to transport logs and do dump truck work within Licence District 6, sought, in the words of the application ". . . to extend the above authority to all zones in B.C. in all directions, and allow us to haul general freight, truck load commodity, non-schedule."

The applicant company was represented at the hearing by Mr. Paul Chaput, its general manager, who was accompanied by his father, Mr. Wallace Chaput, president. The qualified objectors, eleven in number, were represented as follows: Rocky Mountain Transport Ltd. by Mr. Gerry Sengotta; Canadian Freightways Ltd. by Mr. Dwight Boehm; St. George Moving & Storage Ltd. and Glenncoe Transport Ltd. by Mr. Glenn Coe; Van Kam Freightways Ltd. by Counsel, Mr. R. W. Macdonald; Vernon Moving & Storage Ltd. by Mr. Jack Chapman; Motorways (1980) Ltd., Public Freightways Ltd., and CP Express and Transport Ltd. by Counsel, Mr. Tobin Robbins; Sidney Freight Ltd. by Messrs. Lyle Ebert and David J. Harwood; and Berry and Smith Trucking Ltd. by Mr. Ret Tinning.

The applicant called only one witness in presenting its case, that being Mr. Paul Chaput, who indicated that he wished to substantially reduce his application, that his real intent was to get backhaul business to subsidize his other business operations, and that he had sought advice from people experienced in the transportation industry when filing the much broader application.

Mr. Chaput suggested that he should be entitled to transport his product to market by way of private carriage from Licence Districts 3 and 6 to any part of British Columbia, Alberta or the United States, and subsidize that movement by soliciting freight from the public for returning trips. In addition to Mr. Chaput's testimony, he had filed a brief, prior to the hearing, and five letters of support at the hearing.

Some discussion arose on February 25, 1985, with respect to the application being amended, and at the request of the Commission, the applicant, on the following day, filed a suggested amendment. The application, by way of the suggested amendment, sought:

(a) licence authority to transport a number of categories of commodities, including horticultural products/nursery supplies, farm supplies, rock products, wood products, and certain classes of machinery, from anywhere in B.C. to Licence Districts 3 and 6 on a charter trip basis, with the equipment used being limited to high-boys, hopper-bottoms, and dumps; and

(b) licence authority for the two corporately-related companies, the applicant, Chaput Logging Ltd., and Mighty White Dolomite Ltd., to haul products owned by either firm.

The objectors maintained that the applicant had deliberately filed a much broader application than necessary in the hope that a lesser authority would be granted, and generally continued their opposition to the application even as amended. There were some requests for further clarification and that additional restrictions be added to the term and scope of the authority being sought by the applicant. The objectors put forward their belief that the application was not made in good faith to enter the transportation industry, but rather to acquire a licence which would enable the applicant to solicit freight normally carried by other carriers, in order to subsidize related manufacturing and business operations. They stated that the transportation industry of the province had suffered very badly over the last three or four years and that any freight generated by the applicant would be at the expense of licensed carriers properly conducting transportation businesses as full-time ventures.

After considering all of the information before it, including that presented at the hearing, the Commission makes the following findings of fact:

(1) That the application filed and signed by the applicant sought authority far in excess of its actual requirements;

(2) That the clear intent of the applicant was to seek freight in order to subsidize its other business operations;

(3) That despite some indication of plans for new operations in Licence District 6, no meaningful support for service to that area was presented at the hearing;

(4) That the material intended by the applicant to support service to Licence District 3 failed to demonstrate a need for additional incoming freight service;

(5) That the applicant would benefit by having its right to haul for its own and financially-related firms on an inter-corporate basis.

Based on these findings, the Commission has concluded that it would not be in the public interest to grant the application totally, either as originally filed or in the form of the suggested amendment discussed at the hearing.

The Commission orders, therefore, that the application of Chaput Logging Ltd., published as No. 2012/84, be and it is hereby *refused*.

The Commission does recognize in these changing times, however, that if a reasonable case is made, as it was in this particular instance, to regularize the operations of the applicant with respect to its corporately-related sister firm, and to permit greater efficiency in the use of their vehicles, it would be in the public interest to grant the applicant some licence authority.

Accordingly, the Motor Carrier Commission further orders that both the applicant, Chaput Logging Ltd., and its corporately-related firm, Mighty White Dolomite Ltd., be and they are hereby granted licence authority (to continue only so long as they remain under the same corporate control) each to transport commodities normally produced, manufactured, or owned by the other, serving all points in British Columbia, *limited to an intra provincial operation*.

The security deposits filed by the applicant and by the qualified objectors are to be refunded.

Approved by:
GERARD M. MORRIS
Chairman
IAN W. CRAIG
Commissioner
GEORGE MUSSALLEM
Commissioner

By the Motor Carrier Commission:
JOHN KOSOWICK
Secretary to the Commission

PROVINCE OF BRITISH COLUMBIA
MOTOR CARRIER COMMISSION

24-85

In the Matter of the *Motor Carrier Act*, R.S.B.C. 1979, Chapter 286, and Amendments Thereto and Regulations Thereunder; and in the Matter of the *Motor Vehicle Transport Act*, R.S.C. 1970, Chapter M-14; and in the Matter of a Review by the Motor Carrier Commission of its decision concerning the Application of Borek Construction Ltd., published as No. 3301/81.

Before: IAN W. CRAIG, *Commissioner* and GEORGE MUSSALLEM, *Commissioner*.

Dated the 26th day of April 1985.

ORDER

The application of Borek Construction Ltd., published as No. 3301/81, for one new Class 3 Public-freight Vehicle, which had been previously refused, came before the Motor Carrier Commission for review on April 11, 1985.

The applicant, was presented at the review hearing by its President, Mr. Kenn A. Borek. The objectors, FSJ L.A.N.D. Transport Ltd., Aldar Transport Ltd., and Swanberg Brothers Trucking Ltd. were represented respectively by company officials Messrs. L. Fynn, A. Henrickson, and S. Swanberg.

The applicant, by the wording contained in the application sought authority to transport construction, oil field, mining equipment and supplies, as well as farm machinery for one individual or company from points situated within Licence District No. 21, transported to the B.C./Alberta Border, or vice versa.

During the course of the review hearing, it became perfectly clear that the wording of the application did not conform to the intention, or wishes of the applicant. The applicant actually was mainly interested in transporting the commodities named between points located within Licence District No. 21. The application was therefore wrongly worded and did not fill the need, nor express the true intention of the applicant, who had no wish to restrict himself to only extra-provincial (cross provincial boundaries) movements of freight.

Accordingly, the Motor Carrier Commission, after carefully considering all that was learned at the hearing, including that put forward by the applicant, the information presented by the objectors present, and the lack of support for the application, must and does hereby *confirm* its previous decision in this matter *refusing* the application of Borek Construction Ltd., published as No. 3301/81.

The applicant is advised that if it wishes to pursue the matter further, to meet first with the Motor Carrier Branch Inspector located in Dawson Creek, B.C. and file a new application, together with appropriate support, which will be processed in the established manner, and considered on its merits by the Commission.

Approved by:
IAN W. CRAIG
Commissioner
GEORGE MUSSALLEM
Commissioner

By the Motor Carrier Commission:
JOHN KOSOWICK
Secretary to the Commission

PROVINCE OF BRITISH COLUMBIA
MOTOR CARRIER COMMISSION

31-85

In the Matter of the *Motor Carrier Act*, R.S.B.C. 1979, Chapter 286, and Amendments Thereto and Regulations Thereunder; and in the Matter of the *Motor Vehicle Transport Act*, R.S.C. 1970, Chapter M-14; and in the Matter of Great Southwest Warehouses Inc., D/B/A Seattle Transfer and Storage, Respondent, of Seattle, Washington, U.S.A.

Before: GERARD M. MORRIS, *Chairman*, IAN W. CRAIG, *Commissioner* and GEORGE MUSSALLEM, *Commissioner*.

Dated the 6th day of May 1985.

ORDER

Great Southwest Warehouses Inc., d/b/a Seattle Transfer and Storage (the respondent), came before the Motor Carrier Commission in Vancouver, B.C., on April 29, 1985, to show cause why the renewal of the motor carrier licences issued to and in the name of the respondent should not be denied.

The respondent was represented by Counsel, Mr. D. LaCharite. Mr. R. E. Harris, an official of the respondent company, was also in attendance.

The Notice of Show Cause Hearing was read into the record at the commencement of the hearing, as was a letter dated March 12, 1985, from the Commission to the respondent containing particulars of four allegations made relating to the respondent's failure to exercise the rights and privileges granted by such licences, or to provide an adequate and efficient service.

Mr. LaCharite was asked to respond to the allegations contained in the Letter of Particulars and made an opening statement, during which he took issue with Allegations No. 3 and 4, which he said were not related to the company's operations within British Columbia.

Mr. LaCharite then called Mr. Harris, who explained the circumstances and the decisions that led to the cessation of service. He agreed that the respondent was not now providing service from the B.C./U.S.A. border to Vancouver International Airport, or vice versa, as it was authorized to do by its licence authority, and admitted that no service had been provided since November 30, 1984. Furthermore, he agreed that the service had been ceased voluntarily, and prior to that, for a considerable period of time, only an infrequent service had been provided.

The Commission, in considering all that was said at the Show Cause Hearing, has concluded that Allegations No. 3 and 4 do not have any bearing on the respondent's operations in British Columbia, but Allegations No. 1 and 2 are substantially correct, and have been frankly admitted by the witness at the hearing. Allegations No. 1 and 2 which are contained in the letter sent by the Commission to the respondent on March 12, 1985, read as follows:

(1) that you terminated your over-the-road cargo operation November 30, 1984;

(2) that you disposed of all but one of the thirty vehicles you were operating on November 30, 1984.

The Commission notes that the degree of service provided by the respondent for an extended period of time was minimal, and for the period of November, 1984, to the date of the hearing was non-existent.

Under those circumstances, the Commission finds that the respondent failed to exercise the rights and privileges granted in the licence, and to provide an adequate and efficient service.

Accordingly, the Motor Carrier Commission orders that the licence authority issued to and in the name of Great Southwest Warehouses Inc. d/b/a Seattle Transfer and Storage be and it is hereby cancelled, and any rights or privileges conferred on the respondent by that licence authority be and they are hereby extinguished.

Approved by:
GERARD M. MORRIS
Chairman
IAN W. CRAIG
Commissioner
GEORGE MUSSALLEM
Commissioner

By the Motor Carrier Commission:
JOHN KOSOWICK
Secretary to the Commission

PROVINCE OF BRITISH COLUMBIA
MOTOR CARRIER COMMISSION

50-85

In the Matter of the *Motor Carrier Act*, R.S.B.C. 1979, Chapter 286, and Amendments Thereto and Regulations Thereunder; and in the Matter of Application No. 2742/84 of Haida Transport Ltd.

Before: GERARD M. MORRIS, *Chairman*, IAN W. CRAIG, *Commissioner* and GEORGE MUSSALLEM, *Commissioner.*

Dated the 25th day of June 1985.

ORDER

The application of Haida Transport Ltd. (the applicant), published as No. 2742/84, came before the Motor Carrier Commission for hearing on June 5, 1985, in Campbell River, B.C.

The applicant was seeking to transfer to itself all of the motor carrier licence authority issued to and in the name of D.A.D.S. Dial-a-Delivery Service Ltd. (D.A.D.S.), but with deletion from the Conditions of Licence existing Clauses 8 and 9.

The applicant was represented by Counsel, Mr. Michael Hutchinson. The objectors, Public Freightways Ltd., and Route of the Haidas Freightways Ltd. (corporately-related firms) were represented by Counsel Mr. Tobin Robbins, while the objectors, Canadian Pacific Express & Transport Ltd. and T.C. Trucking Ltd., were represented respectively by company officials, Messrs. Bruce Smith and Terry Robinson.

D.A.D.S. was a licensed Class III public freight carrier based in Campbell River, B.C. Its Conditions of Licence contained 10 clauses, including 4 contract clauses, as well as others, generally of a localized nature, but with some exceptions, one being a general freight charter trip authority permitting the transportation of goods from the Campbell River area to points on Vancouver Island, and also to points within 25 road miles of Exhibition Park in Vancouver, B.C., or vice versa.

D.A.D.S. encountered serious financial difficulties, was placed in receivership in December, 1984, by a former shareholder, Mr. Stewart Morrison under a Debenture, and was assigned into bankruptcy on January 15, 1985. The applicant in these proceedings, of which Mr. Morrison is a 40% shareholder, subsequently purchased the licence authority from the Receiver and sought to transfer that authority to itself and continue to operate under the new name.

The applicant, in presenting its case at the hearing, called eight witnesses, and filed 11 letters of support, primarily from local businesses. The applicant took the position generally that this was a straight forward application for transfer to it of the licence authority previously held by an existing licensed carrier, D.A.D.S. Dial-a-Delivery Service Ltd., which encountered financial difficulties and ended up in bankruptcy. Service has been provided with only minor interruptions by the applicant over the past five months under Temporary Operating Permits issued by the Motor Carrier Branch. The service was well supported by its clients, thus demonstrating a public need, and as it was an existing licence, this was not a case whereby a new carrier was being introduced to the area.

The objectors called no witnesses on their behalf and relied instead upon cross-examination of the applicant's witnesses, the filing of exhibits, and upon summation at the conclusion of the proceedings. It was argued by the objectors that the licences in question should have been cancelled as soon as the company was placed into bankruptcy. It was further argued that there was more than adequate service presently being provided by licensed carriers to the Campbell River area and the application ought therefore to be refused.

The Commission, after carefully considering all of the information before it, including that presented at the hearing, has concluded that in the existing circumstances, the application ought to be granted.

Accordingly, it is ordered that the application for transfer of Haida Transport Ltd., published as No. 2742/84, be and it is *hereby granted*.

It is further ordered that the security deposits filed by all of the participants in these proceedings be refunded.

Approved by:

GERARD M. MORRIS
Chairman

IAN W. CRAIG
Commissioner

GEORGE MUSSALLEM
Commissioner

By the Motor Carrier Commission:

JOHN KOSOWICK
Secretary to the Commission

PROVINCE OF BRITISH COLUMBIA
MOTOR CARRIER COMMISSION

52-85

In the Matter of the *Motor Carrier Act*, R.S.B.C. 1979, Chapter 286, and Amendments Thereto and Regulations Thereunder; and in the Matter of a Review by the Motor Carrier Commission of its decision concerning the Application of Jessing Holdings Ltd. D/B/A ABC Taxi, published as No. 1687A/84.

Before: IAN W. CRAIG, *Commissioner.*

Dated the 3rd day of July 1985.

ORDER

The application of Jessing Holdings Ltd. d/b/a ABC Taxi, (the applicant) published as No. 1687A/84, which had been previously refused on October 25, 1984, came before the Motor Carrier Commission for review on June 19, 1985, in Fort St. John, B.C.

The applicant was represented by Counsel, Mr. Donald Currie, and the two objectors, Teco Taxi Ltd., and Fort St. John Cabs Ltd., were represented by Mr. Ronald D. Olson, assisted by Mr. D. MacLean.

In the original application, the applicant sought two new Limited Passenger-vehicle (Taxi) Licences, authorizing the transportation of passengers by charter trip from within Licence District 21 north of the Peace River to any point in B.C., as well as the transportation of airline passengers by limousine between Fort St. John, B.C. and the Fort St. John airport, charging individual fares, or vice versa.

At the review hearing, the applicant, through Counsel, put forward an amendment to the application, which was approved by the Commission, altering the area of service to Fort St. John, B.C., and 25 road-miles therefrom, transported to any point in B.C., or vice versa, and deleting entirely from the application the request to provide a limousine airport service.

After a brief opening address, Counsel for the applicant presented one witness, that being Mr. Lawrence D. James, its president, who generally reviewed his efforts to enter the taxi business, and discussed his present taxi operation within the city limits (exempt from motor carrier regulation), told of how he had built a substantial business by providing a fast, courteous, dependable service, and consequently, because of that, had been asked by many of his customers to expand the existing service to other areas outside the city limits.

Mr. James told of how he had given jobs in his taxi business to a number of people who had previously been unemployed. He asked for the opportunity to compete, on an even footing, with the two objecting taxi firms, which, he said, had no competition because they were under common ownership, operated out of the same premises and under the same dispatch. Competition, Mr. James said, had a tendency to improve service to the public.

In addition, a petition type of support form, and a number of letters of support, were presented at the hearing, portions of which were read into the record. Included in the support material were letters from the Mayor of the City of Dawson Creek, the Clerk-Administrator of the Village of Taylor, and the Chiefs of two of three nearby Indian Bands.

The objectors presented two witnesses; Mr. Ronald D. Olson, who is president/secretary of both of the objecting carriers, and Mr. D. M. MacLean of the Taxi Owners' Association of B.C.

Mr. Olson described how his original taxi firm had grown in size and how he had acquired the second when it was in extreme financial difficulties. He said the taxi business was very time consuming and he worked hard, but made little money. He too felt that he was providing an excellent service to his clients and had good equipment on the road.

He testified that he had 11 vehicles licensed and ready for the road, but only dispatched 5 to 6 most of the time because of the lack of demand for service. He predicted that if the application were granted, either he or the applicant would end up with financial problems because, he said, the economy showed no definite signs of improvement and Fort St. John was still in a rather depressed state.

Mr. MacLean generally concurred with the testimony of the previous witness. He expressed the view that some segments of the taxi industry at times required a certain amount of protection, and that this particular area should not be over-licensed.

The Commission is fully aware of its duties pursuant to Section 36 (1) of the *Motor Carrier Act* to foster sound economic conditions in the transportation industry of the province, but it must also consider first its paramount responsibility to the public.

The two objectors are well-entrenched licensed carriers in apparently reasonably good financial condition (witness their recent investment of $60,000 in new equipment) and should be able to hold their own in a more competitive environment. The Commission subscribes to the axiom that competition improves service to the public and detected in the hearing an undercurrent of general dissatisfaction with the general quality of the service presently being provided by the two licensed carriers, coupled with an ernest desire in the Fort St. John area for a truly competitive service. The Commission notes that had the support material presented at the hearing been submitted with the original application, the application would probably have been granted, instead of being refused on October 25, 1984.

Accordingly, the Motor Carrier Commission orders that its previous decision of October 25, 1984, refusing the application of Jessing Holdings Ltd. d/b/a ABC Taxi, published as No. 1687A/84, be and it is hereby rescinded.

It is further ordered that Jessing Holdings Ltd. d/b/a ABC Taxi, be and it is hereby granted two new Limited Passenger-vehicle Licenses (as amended at the hearing) to provide charter trips originating from the City of Fort St. John, B.C., and 25 road-miles therefrom, carrying a person or group of people under charter to any point in B.C. or vice versa from a terminal point on 100th Avenue in Fort St. John, B.C., subject to compliance by the said applicant with the usual mandatory pre-licensing requirements.

It is further ordered that the security deposits filed by the applicant and by the two qualified objectors be refunded.

Approved by:

GERARD M. MORRIS
Chairman

IAN W. CRAIG
Commissioner

GEORGE MUSSALLEM
Commissioner

By the Motor Carrier Commission:

JOHN KOSOWICK
Secretary to the Commission

PROVINCE OF BRITISH COLUMBIA
MOTOR CARRIER COMMISSION

57-85

In the Matter of the *Motor Carrier Act*, R.S.B.C. 1979, Chapter 286, and Amendments Thereto and Regulations Thereunder; and in the Matter of Application No. 3043/84 of Comox Valley Distribution Ltd.

Before: GERARD M. MORRIS, *Chairman*, IAN W. CRAIG, *Commissioner* and GEORGE MUSSALLEM, *Commissioner*.

Dated the 15th day of July 1985.

ORDER

The application of Comox Valley Distribution Ltd., (the applicant), published as No. 3043/84, came before the Motor Carrier Commission for hearing in Courtenay, B.C., on Monday, June 3, 1985, and continued on June 4. Argument was presented in Vancouver on June 10, 1985.

The applicant was represented by Counsel, Mr. L. R. Peterson, Q.C. The objectors, Public Freightways Ltd., Canadian Pacific Express and Transport Ltd., Capital Freightways Ltd., Sidney Freight Ltd., and T. C. Trucking Ltd., were represented respectively by Counsel Mr. T. S. Robbins, Mr. B. N. Smith, Counsel Mr. B. Dong, Mr. David Harwood, and Messrs. T. C. Robinson and R. Carmichael.

Mr. Peterson, in his opening address, clarified the intention of the applicant, which was to seek authority to provide a Class III (non-scheduled) LTL general freight service between the Greater Vancouver area and the Comox Valley, and also between Nanaimo, B.C., and the Comox Valley. Service between Nanaimo and Vancouver was not contemplated and was not included in the application, Mr. Peterson pointed out.

The application was being pursued, Mr. Peterson said, because there had been numerous complaints from Comox Valley people; first, regarding the quality of service to the area, and second, respecting the rates charged for the service provided.

Mr. Peterson also advised in his opening address that Mr. Halverson, the president of the applicant company, is a highly experienced operator, has warehouse and terminal facilities in place, both in Burnaby and in Courtenay, staff ready, equipment arranged for, and phone service ready, so that the operation could be commenced very quickly if the application were granted. Mr. Halverson planned to provide a regular daily service, including Saturdays, between the Mainland and the Comox Valley, and from Nanaimo on the same basis.

In addition to a number of letters of support filed at the hearing, 12 shipper witnesses were called to testify on behalf of the applicant, as well as one corporate witness, that being Mr. John Halverson. The shipper witnesses, primarily local businessmen, testified as to the problems they encountered in having merchandise shipped from Vancouver and beyond. These problems appeared to be generally related to delays in receiving shipments, the rates charged, and to a lesser extent, slowness in settling damage claims.

Mr. Halverson, in his evidence, briefly reviewed his 20 years' trucking experience and his involvement with Squamish Freightways Ltd., which he had originally sold before he moved to Courtenay some 5 years' ago. He described how he had to become re-involved with that firm, which he now owns with his wife, because the purchaser got into financial difficulties. He related as well that because it became known in the Courtenay area that he had been in the trucking business, a number of local business people discussed their freight problems with him and he subsequently decided to apply for motor carrier authority. Comox Valley

Distribution Ltd. was incorporated in August, 1984, for that precise purpose. He spoke of his plans and policy for the operation, explained the rates to be charged, and the benefits which he felt could accrue to the Valley if the application were granted.

The objectors, who called a total of four witnesses, generally took the position that there was more than adequate service of good quality being provided to the Comox Valley by a number of licensed carriers, which in recent years have suffered declines in volume of freight and revenue, reductions in staff, and equipment lying idle. Public Freightways, which has been operating at a loss for several years, noted that while its Courtenay Terminal was closed recently, service was still being provided on a regular basis to the Comox Valley through other termini.

The Commission has carefully considered the nature and intent of the application, as well as its similarity to previous applications filed by other carriers to serve the same general Area. The Commission has also carefully reviewed its responsibilities as set out in Section 36 and Section 5 of the *Motor Carrier Act*.

Based on the evidence before it, the Commission makes the following findings of fact:

(1) The principal of the applicant company is a resident of the Comox Valley and has been for some years;

(2) He is an experienced motor carrier and is conducting a freight operation on the Mainland with a totally separate company under a different name;

(3) The applicant proposes to offer same-day service, Saturday delivery, consolidation of freight on request, and special "convenience" rates for quantities of commodities in excess of 10,000 pounds;

(4) The financial projections made by the applicant are such that they cannot be successfully challenged or substantiated without being put to an actual operations test;

(5) Very little evidence of support was demonstrated for the Nanaimo-Comox Valley portion of the application.

In light of all of the information before it, including material submitted at the hearing and prior to the hearing, and recognizing the attraction that a home-based carrier has for local residents, the Commission has concluded that the applicant should be given the opportunity to demonstrate the feasibility of those portions of the application which were strongly supported, until such time as the Commission can assess the results during an appropriate time period.

Accordingly, the Motor Carrier Commission has decided to defer its final decision with respect to the Courtenay-Vancouver portion of the application until after September 30, 1986. During the interim period, Temporary Operating Permits will be issued to the applicant to operate a Class I carrier service between those points, as applied for, with a daily schedule, including local Saturday delivery. The applicant must comply with all the usual mandatory pre-licensing requirements, including the filing of complete and acceptable tariffs containing all of the rates the carrier proposes to levy.

The trial period will commence on July 30, 1985, and continue until September 30, 1986, and the daily service imposed by this Order must be in operation not later than September 30, 1985.

The Commission will monitor the operation of the applicant in a manner to be determined by the Superintendent of Motor Carriers, who will report to the Commission thereon at suitable intervals.

The Motor Carrier Commission orders that the Nanaimo-Comox portion of the application of Comox Valley Distribution Ltd., published as No. 3043/84, be and it is hereby refused.

It is further ordered that the $50 security deposits filed by the applicant and by the objectors on record be refunded.

Approved by:

GERARD M. MORRIS
Chairman

IAN W. CRAIG
Commissioner

GEORGE MUSSALLEM
Commissioner

By the Motor Carrier Commission:

JOHN KOSOWICK
Secretary to the Commission

PROVINCE OF BRITISH COLUMBIA
MOTOR CARRIER COMMISSION

84-85

In the Matter of the *Motor Carrier Act*, R.S.B.C. 1979, Chapter 286, and Amendments Thereto and Regulations Thereunder; and in the Matter of Application No. 566B/85 of Juergen Bruno of Powell River, B.C.

Before: IAN W. CRAIG, *Commissioner* and GEORGE MUSSALLEM, *Commissioner*.

Dated the 14th day of November 1985.

ORDER

The application of Juergen Bruno, (the applicant) published as No. 566B/85, came before the Motor Carrier Commission for hearing on November 5, 1985, in Powell River, B.C.

The applicant sought a new Class III (non-scheduled) Public Freight Vehicle Licence to provide a general freight service between the Powell River area (including Texada Island) and the Lower Mainland, or vice versa.

The applicant represented himself at the hearing. The two corporately related qualified objectors, Sunshine Transport (1984) Ltd. and City Transfer (1945) Ltd., were represented by Counsel, Mr. L. R. Peterson, Q.C. The other qualified objector, J. O. Cawthorpe d/b/a Texada Tansfer, also represented himself.

Mr. Bruno, in his opening address at the hearing, suggested that because the two principal objectors were corporately related, they constituted a monopoly and he felt, therefore, that he should be licensed to provide an alternative service. No witnesses were called by the applicant, although he himself took the stand, and no further documentary evidence was filed.

In his testimony, Mr. Bruno told of his trucking experience and described the arrangements he was considering for the service he would provide, if the licence was granted. He intended to use lease operators exclusively so as to cut costs and reduce the capital outlay required. He discussed his involvement in a local farm and pet supply business for which he generally picked up supplies in the Lower Mainland in his own vehicle as private freight. He also disclosed that he had other business interests, as well.

The objectors generally took the position that there was more than enough service being provided to the Powell River area and that the merchants were satisfied with the quality and frequency of the service available. A number of survey results were filed as exhibits during the course of the hearing, which appeared to support that position.

The Motor Carrier Commission, after considering all of the information before it, including that brought out at the hearing, makes the following findings of fact:

(1) No evidence was presented by the applicant to demonstrate public need for additional service, or in fact any desire on the part of the local merchants for alternative services;

(2) No evidence was presented to indicate that the corporate relationship of the two main objectors was detrimental in any way to the users of the service;

(3) Adequate freight service appears presently to be provided to the Powell River/Texada Island area.

Accordingly, on the basis of these findings of fact, the Motor Carrier Commission orders that the application of Juergen Bruno, published as No. 566B/85, be and it is *hereby refused*.

It is further ordered that the security deposits filed by the said applicant and by the qualified objectors who appeared at the hearing, be refunded.

Approved by:
IAN W. CRAIG
Commissioner
GEORGE MUSSALLEM
Commissioner

By the Motor Carrier Commission:
JOHN KOSOWICK
Secretary to the Commission

PROVINCE OF BRITISH COLUMBIA
MOTOR CARRIER COMMISSION

88-85

In the Matter of the *Motor Carrier Act*, R.S.B.C. 1979, Chapter 286, and Amendments Thereto and Regulations Thereunder; and in the Matter of the *Motor Vehicle Transport Act*, R.S.C. 1970, Chapter M-14; and in the Matter of Application No. 167/85 of Frederick Transport Ltd., Chatham, Ontario.

Before: GERARD M. MORRIS, *Chairman*.

Dated the 4th day of December 1985.

ORDER

The application of Frederick Transport Ltd. (the applicant), published as No. 167/85 and then amended, the amendment being published as No. 167A/85, came before the Motor Carrier Commission and the Ontario Highway Transport Board in Toronto, Ontario on November 25, 1985 for Joint Hearing.

The applicant was represented by Joint Counsel, Messrs. D. Saul and R. W. Macdonald, and Miss Wenda Yenson. At the commencement of the hearing it was announced that TNT Canada Inc. had formally withdrawn as objectors. No other objectors attended, and none were represented at the hearing.

Besides filing written support, including a book of exhibits, a book of photos, and supplementary support material, the applicant called two corporate witnesses, Mr. Thomas Brooke and Mr. D. W. Haney, President and Vice-President of Marketing respectively, who outlined the company's history, and commented on its operation and growth.

In addition, ten more witnesses representing a number of substantial shippers testified in support of the application, apprised the Commission of the need for the service sought to be authorized, indicated the frequency that the service would be required, and the volumes of freight proposed to be transported by the applicant.

Exemplary of such witnesses was Mr. V. W. B. Hamilton of Weldwood of Canada Ltd., who emphasized the need for more trucking service between the Province of B.C. and the Province of Ontario. He felt that there was a shortage of truck capacity, and he noted that his firm shipped 98% of its product to eastern markets by rail. He indicated that he would ship more product by truck if he could, noting that a delivery time of seven days, as compared to fourteen days by rail, significantly reduced his inventory, sales and distribution costs. He concluded by saying that more and better trucking service would enable Weldwood to be more competitive in the eastern Canadian market.

The Commission, in adjudicating this particular matter, noted first, that there were no objectors to the application, and second, that a substantial body of evidence was submitted by Counsel for the applicant indicating that the applicant was a fit operator, that the applicant was strongly supported by the shipper witnesses presented, and that a public need had been demonstrated for the additional services sought to be authorized.

Accordingly, the Motor Carrier Commission orders that the application of Frederick Transport Ltd., published as No. 167/85, then amended, the amendment being published as No. 167A/85, be and it is hereby granted in the terms applied for, to provide a charter service, subject to compliance beforehand with the usual mandatory pre-licensing requirements.

It is further ordered that the fifty dollar security deposit filed by Reimer Express Lines Ltd., who withdrew from the hearing one week before it began, and the fifty dollar security deposit filed by TNT Canada Inc., who withdrew on the morning of the hearing, be forfeit and, therefore, are not to be refunded.

It is further ordered that the applicant in these proceedings, Frederick Transport Ltd., be assessed costs to be paid forthwith in the amount of $2,443.15 to help defray the direct expenses incurred in connection with the hearing, and that the fifty dollar security deposit filed by the applicant beforehand be set off against the total amount assessed.

Approved by:

GERARD M. MORRIS
Chairman

IAN W. CRAIG
Commissioner

GEORGE MUSSALLEM
Commissioner

By the Motor Carrier Commission:

JOHN KOSOWICK
Secretary to the Commission

PROVINCE OF BRITISH COLUMBIA
MOTOR CARRIER COMMISSION

91-85

In the Matter of the *Motor Carrier Act*, R.S.B.C. 1979, Chapter 286, and Amendments Thereto and Regulations Thereunder; and in the Matter of Similar Applications for Motor Carrier Licence Authority of (A) Imperial Taxi Ltd., of New Westminster, B.C., published as No. 3050/84; and (B) Bel-Air Taxi (1982) Ltd., of Coquitlam, B.C., published as No. 140/85.

Before: GERARD M. MORRIS, *Chairman*, IAN W. CRAIG, *Commissioner* and GEORGE MUSSALLEM, *Commissioner*.

Dated the 18th day of December 1985.

ORDER

The competing applications of Imperial Taxi Ltd., (Imperial), and Bel-Air Taxi (1982) Ltd., (Bel-Air), published respectively as No. 3050/84 and No. 140/85, to provide taxi service in all of the Municipality of Burnaby, came before the Motor Carrier Commission for hearing on November 18, 1985, in Burnaby, B.C.

Imperial holds no authority at the present time to provide taxi service anywhere, but Royal City Taxi Ltd.., which shares common ownership with this applicant, is licensed to serve the City of New Westminster and has limited authority, as well, in the Municipality of Burnaby. Bel-Air is located and generally provides service primarily in the Coquitlam-Port Moody-Port Coquitlam area, but can also serve portions of Burnaby. Both applicants sought by their respective applications to provide a taxi service in all of Burnaby.

At the hearing, Imperial was represented by Counsel, Mr. A. W. Basile, and Bel-Air was represented by Counsel, Mr. K. Antifaev.

The qualified objectors, Bonny's Taxi Ltd. and Burnaby Select Taxi Ltd., were represented respectively by Counsel, Mr. Allen G. LaCroix, and a company official, Mr. D. Oldham. A representative of North Shore Taxi (1966) Ltd., which failed to qualify completely as an objector to the application, was present for the first day of the proceedings only.

In presenting the case for Imperial, its Counsel called four witnesses, including Messrs. Duart MacLean and Gordon MacLean who are its principals, Mr. K. Pirie, a hotel employee, and Mr. B. A. Campbell from the consulting firm which prepared a report based on a telephone taxi survey undertaken by his firm at the request of the applicant, and filed at the hearing as Exhibit No. 6. Additional material was filed, including a book containing some 112 letters from individuals and business people.

Counsel for Bel-Air called two witnesses, the president of the company, Mr. B. S. Dhillon, and Mrs. F. C. Payne, a public relations person employed by this applicant to solicit support for the applicant, the results of which, some 155 form type letters, were entered at the hearing as Exhibit No. 4, together with other related material.

The objector, Bonny's Taxi Ltd., which is presently authorized by the Commission to serve all of Burnaby, called three witnesses, including Mr. K. Foy, its general manager, as well as one of its drivers and a hotel employee.

The objector, Burnaby Select Taxi Ltd., also licensed to serve all of Burnaby, called two witnesses who previously drove for Bonny's Taxi Ltd., but who are now working for Burnaby Select Taxi Ltd. In addition, Mr. Oldham presented argument at the conclusion of the proceedings.

The Commission, after considering all of the information before it, including the testimony given, the exhibits filed at the hearing, and argument from Counsel and from Mr. Oldham, makes the following findings of fact:

(1) At the present time the Municipality of Burnaby has imposed a ceiling on the number of taxi cabs which will be granted a municipal licence to operate in that area;

(2) The Greater Vancouver Regional District has recently initiated a study which may lead to recommendations having a significant impact on the number of such municipal licences which may be granted;

(3) There has been a noticeable upgrading of equipment and service by Bonny's Taxi Ltd., the largest taxi operator based in the Municipality of Burnaby;

(4) A degree of competition now exists in Burnaby, as Bel-Air and Royal City Taxi Ltd., which shares common ownership with Imperial, are already licensed to serve portions of the Municipality of Burnaby;

(5) The Commission has recently initiated a "vice versa" authority which permits taxi cabs to be licensed to operate on a limited scale in surrounding municipalities;

(6) This "vice versa" provision will, in itself, increase the competitive aspect of the taxi industry in Burnaby and other municipal areas;

(7) It will be some months at least before the degree and effect of such competition and other related matters can be evaluated.

The competitive impact the new "vice "versa" authority and other matters referred to in the findings of fact above will have on taxi service in Burnaby (and other areas) is impossible to predict and will not be known for some time.

The Commission has come to the conclusion, therefore, that it would not be in the public interest, nor would it be fair, either to the applicants or to the objectors, to render a decision without having before it information which is not available at this time, but which may have a considerable bearing on a decision.

Accordingly, the Motor Carrier Commission has decided to defer its decision with respect to the applications of Imperial Taxi Ltd., published as No. 3050/84, and Bel-Air Taxi (1982) Ltd., published as No. 140/85, for a period of eight months from the date of this Order.

The Motor Carrier Commission orders that the fifty dollar security deposits filed by all the parties interested in this matter be refunded.

Approved by:

GERARD M. MORRIS
Chairman

IAN W. CRAIG
Commissioner

GEORGE MUSSALLEM
Commissioner

By the Motor Carrier Commission:

JOHN KOSOWICK
Secretary to the Commission

PROVINCE OF BRITISH COLUMBIA
MOTOR CARRIER COMMISSION

94-85

In the Matter of the *Motor Carrier Act*, R.S.B.C. 1979, Chapter 286, and Amendments Thereto and Regulations Thereunder; and in the Matter of the *Motor Vehicle Transport Act*, R.S.C. 1970, Chapter M-14; and in the Matter of Application No. 1573A/85 of Northern Industrial Carriers Ltd.

Before: GERARD M. MORRIS, *Chairman*, IAN W. CRAIG, *Commissioner* and GEORGE MUSSALLEM, *Commissioner*.

Dated the 23rd day of December 1985.

ORDER

The application of Northern Industrial Carriers Ltd., (the applicant), published as No. 1573A/85, came before the Motor Carrier Commission for hearing in Burnaby, B.C., on December 10, 1985. The hearing was concluded, with argument being presented, on December 13, 1985.

The applicant was represented by Counsel, Mr. A. W. Basile. The qualified objectors, Reimer Express Lines Ltd., Byers Transport Ltd., Public Freightways Ltd., and Motorways (1980) Ltd., were represented by Counsel, Mr. Tobin Robbins. The qualified objector, Canadian Freightways Ltd., was represented by a company official, Mr. D. L. Boehm. Mercury Express Ltd. and Economy Carriers Ltd., both of which filed the required $50 security deposit in time to qualify as objectors, failed to appear and were not represented at these proceedings.

The applicant, which holds extensive licence authority (but limited in some respects by commodity or by contract) in this province, as well as in other jurisdictions, sought by this application to delete eight existing (charter) clauses from its existing Conditions of Licence, and to replace them with a new (less than truckload) general freight clause, but excluding therefrom:

(a) household goods and settlers effects;

(b) foodstuffs for human consumption; and

(c) any shipment weighing or being billed as weighing less than 4 536 kg (10,000 lbs.) from any border of B.C. to any point in this province or vice versa.

Counsel for the applicant, in presenting his case, called 11 witnesses, nine being shippers, and two being corporate witnesses, one its president and principal shareholder, Mr. Simon Shochatsky, the other, Mr. Steve Basaraba, the B.C. general manager. In addition, a number of exhibits were filed at the hearing, including a book containing some 135 letters or certificates of support, photographs, and other related material.

The objectors called a total of five witnesses, all being company officials, who testified on behalf of their own particular firms. A number of exhibits were also filed on behalf of the objectors, containing documentation relating to the testimony presented.

The Commission, after carefully considering all of the information before it, including the testimony, exhibits and argument presented at the hearing, makes the following findings of fact:

(1) The applicant is a competent, well-established carrier operating principally as a transporter of charter loads;

(2) In British Columbia it has extensive authority which permits it to use specialized equipment to meet the needs of a considerable number of shippers and receivers;

(3) The applicant did not establish a convincing case for acquiring an LTL general freight authority on an extra-provincial basis;

(4) The applicant was able, however, to demonstrate a need for some change in its authority in relation to one specific commodity.

Accordingly, the Motor Carrier Commission orders that the application of Northern Industrial Carriers Ltd., published as No. 1573A/85, be and it is hereby *refused* as applied for, but the said applicant be and it is hereby granted the following additional licence authority:

Commodities to be Carried:	*For Whom to be Carried:*	*Area, Route or Territory:*
Steel pipe.	Any individual or company.	From points in Licence Districts 14, 14A and 15 transported to any border of B.C.; or vice versa.

Restriction: Pick-up of freight in British Columbia for delivery in British Columbia NOT permitted.

It is further ordered that the security deposits filed by the applicant and by the objectors, other than Mercury Express Ltd. and Economy Carriers Ltd., which are forfeit pursuant to Regulation 4.16 (2) of the *Motor Carrier Act*, be refunded.

Approved by:
GERARD M. MORRIS
Chairman
IAN W. CRAIG
Commissioner
GEORGE MUSSALLEM
Commissioner

By the Motor Carrier Commission:
JOHN KOSOWICK
Secretary to the Commission

PROVINCE OF BRITISH COLUMBIA
MOTOR CARRIER COMMISSION

1-86

In the Matter of the *Motor Carrier Act*, R.S.B.C. 1979, Chapter 286, and Amendments Thereto and Regulations Thereunder; and in the Matter of Application No. 1519/85 of Terry Elliott d/b/a Cordova Bay Freight Service.

Before: GERARD M. MORRIS, *Chairman* and GEORGE MUSSALLEM, *Commissioner.*

Dated the 22nd day of January 1986.

ORDER

The application of Terry Elliott d/b/a Cordova Bay Freight Service (Cordova), published as No. 1519/85, came before the Motor Carrier Commission for hearing in Victoria, B.C., on January 9, 1986.

The application being considered was worded in the following manner:

Alteration of all Class I Public Freight Vehicle Licences by adding to the existing Conditions of Licence the following additional authority:

Commodities to be Carried:	*For Whom to be Carried:*	*Area, District or Territory:*
General freight.	Any individual or company.	From Vancouver Island points situated within 100 road miles from the Victoria City Hall delivered to Vancouver and points within 25 road miles of its boundaries thereof, or vice versa.

Cordova was represented by Mr. Terry Elliott. The qualified objectors present were represented as follows: Public Freightways Ltd. by Counsel, Mr. T. S. Robbins; CP Express and Transport Ltd. by a company official, Mr. B. N. Smith; and Sidney Freight Ltd. by a company official, Mr. D. J. Harwood.

Cordova called three witnesses, two shipper witnesses, and Mr. Elliott, who gave a brief history of his family-owned company, which has been in business for some 40 years. In addition, a book containing some 167 questionnaire letters of support was filed as an exhibit.

The two shipper witnesses expressed complete satisfaction with the services already being provided them under Cordova's existing licence authority, and strongly supported the application for extension of licence authority.

The three qualified objectors each called one witness, a company official, who indicated in their testimony that there was more than enough service now available, and under the existing economic conditions their own firms, which have already suffered serious declines in both volumes and revenue, could be adversely affected if the application were granted.

They pointed out, as well, that Class I scheduled carriers are required to provide regular service, even if very little freight is tendered, but in this particular case, Cordova is seeking to provide the services on a non-scheduled basis and will not have the responsibility of operating if no freight is offered.

The Commission notes that this applicant filed a similar application previously, but to service a considerably smaller portion of Vancouver Island. This was refused by the Commission in an Order dated May 6, 1985, after a public hearing, and is being appealed. In that Order the Commission made the following Findings of Fact:

1. The applicant is a conscientious and competent motor carrier who, over a period of years, developed a relatively substantial business based primarily on service to a limited number of people;
2. The support material submitted was in the main acquired by handing out questionnaires while making deliveries on behalf of other shippers or carriers;

3. The support material did not generally give any useful guidelines as to the volume of freight which could or would be taken by the applicant, or the amount of service that would be required;
4. The testimony of the shipper witnesses did not demonstrate a substantial need for the applicant's services, and further, a number of shipper witnesses admitted that they did not control distribution of the freight directed to them by suppliers;
5. The applicant had not done a market study, developed a business plan, or thoroughly considered the financial implications embodied in the application;
6. The Vancouver to Victoria lane of traffic is highly competitive, and to a large extent is a one-way operation;
7. Most regular or scheduled carriers serving the Vancouver to Victoria lane have experienced a noticeable decline in traffic and profitability in recent years.

Generally the same Findings of Fact, with slight modification, apply equally in this case. With reference to Finding of Fact No. 2, the Commission was told that Cordova did not acquire the questionnaires tendered at this hearing when making deliveries, but instead made a special effort to solicit them separately, and in Finding of Fact No. 3, some additional information, such as volumes of freight and amount of service, was divulged. However, all of the Findings of Fact, other than the two exceptions mentioned, apply equally to this application.

Having experienced one hearing, the Commission expected that the applicant, Cordova, would be prepared to call a greater number of and more meaningful witnesses this time, and make a real effort to present a strong case in support of what is, in fact, a far greater licence authority than that sought previously.

That expectation was not realized. Only two witnesses were presented this time, as opposed to six at the last hearing. Again, the support material filed was deficient in that it left considerable doubt as to who actually had control over the shipping of the freight in question, and thus had the final decision as to which carrier was selected.

The Commission notes, as well, that there have been several other significant developments in the transportation business on Vancouver Island since the previous hearing in April 1985, which may have a profound effect on the service available to that area. For example, a motor carrier licence has since been granted to a new carrier to serve the Courtenay area from Vancouver, and several takeovers have occurred that will give existing Vancouver Island carriers (Capital Freightways Ltd. and T.C. Trucking Ltd.) strong provincial and extraprovincial or international connections. There is no doubt that this will result in increased competition for the available freight.

The Commission adjudicates each application on its own particular merits, based on the information before it, and on the circumstances existing at the time the decision is made. It has done so in this particular case.

The Commission finds after considering all of the information before it, including that presented at the hearing, that the applicant has failed to justify the granting of the substantial additional authority sought. For example, the evidence of one shipper witness was that he used his own vehicle to transport his own freight because he found it to be a cost advantage over LTL carriers, and his use of the applicant would depend on the rates charged. The other shipper witness, who admitted his volumes to Nanaimo had diminished recently, indicated that the degree to which he would use the applicant would depend on a particularly favourable rate, which rate had not yet been established. In addition there was a notable lack of shipper support from Vancouver, and absolutely none from either Duncan or Nanaimo; all points that the applicant proposed to serve.

Accordingly the Motor Carrier Commission orders that the application of Terry Elliott d/b/a Cordova Bay Freight Service, published as No. 1519/85, be and it is hereby refused.

It is further ordered that the $50 security deposit filed by the applicant and by the qualified objectors present be refunded.

Approved by:
GERARD M. MORRIS,
Chairman
GEORGE MUSSALLEM
Commissioner

By the Motor Carrier Commission:
JOHN KOSOWICK
Secretary to the Commission

PROVINCE OF BRITISH COLUMBIA
MOTOR CARRIER COMMISSION

6-86

In the Matter of the *Motor Carrier Act*, R.S.B.C. 1979, Chapter 286, and Amendments Thereto and Regulations Thereunder; and in the Matter of the *Motor Vehicle Transport Act*, R.S.C. 1970, Chapter M-14; and in the Matter of a Review by the Motor Carrier Commission of its Decision Concerning the Application of A Transport Northwest Co. Inc., Published as No. 779/85.

Before: GERARD M. MORRIS, *Chairman* and IAN. W. CRAIG, *Commissioner.*

Dated the 6th day of February 1986.

ORDER

Whereas the Motor Carrier Commission, after considering the application of A Transport Northwest Co. Inc., (the applicant), for 10 New Limited Freight-vehicle Licences, published as No. 779/85, refused the application on August 27, 1985; and

Whereas the applicant asked for a review of that decision and the Commission, by Notice of Hearing, set the application down for a review hearing on January 24, 1986. Copies of the Notice were mailed to all of the parties on record as being concerned with the application, and published in the daily Summary of Applications and Decisions; and

Whereas at the review hearing on January 24, 1986, the applicant was represented by two company officials, Mr. I. Jones and Ms. D. Jones, who were accompanied by Mr. D. E. Caissie, Manager, Terminal Operations for International Sealand Shipping Services Ltd.; and

Whereas not one objector appeared and none were represented at the hearing; and

Whereas at the review hearing, the applicant made a submission to the Commission regarding the services sought to be licensed under contract for the named shipper, mainly as a back-up carrier to provide transportation services when the primary carrier of the applicant is unable to provide the services required; and

Whereas Mr. Caissie, on behalf of the named shipper, which uses the services of the applicant extensively in the U.S.A., spoke highly of those services, and strongly supported the applicant, noting that there had been a number of occasions when service had not been available, resulting in some delays in effecting deliveries; and

Whereas the Commission, after considering carefully what was said at the review hearing, concluded that its original decision in this matter ought to be varied, and some licence authority granted to the applicant, although not in the terms applied for;

Accordingly, the Motor Carrier Commission orders that its previous decision in this matter of August 27, 1985, be and it is hereby rescinded.

It is further ordered, subject to compliance by the applicant with the usual pre-licensing requirements, including registration as an extraprovincial company with the *Registrar of Companies* in British Columbia and payment of fees, that the applicant, A Transport Northwest Co. Inc., be and it is hereby granted the following limited freight-vehicle licence authority:

Commodities to be Carried:	*For Whom to be Carried:*	*Area, District or Territory:*
General freight, loaded in containers, comprising only freight having a subsequent or prior movement by water, empty containers (by order and under the direction of International Sealand Shipping Services Ltd.) (Charter trips.)	International Sealand Shipping Services Ltd.	From the B.C./U.S.A. border delivered to points in Licence Districts 14, 14A and 15; or vice versa.

Restrictions:

(A) All freight transported under this clause shall have received or is to receive transport by deep sea ship to or from the Port of Tacoma, Washington.

(B) For the purpose of this clause a container is defined as a cargo unit designed especially for intermodal transport which shall have a displacement of not less than six hundred (600) cubic feet.

Approved by:
GERARD M. MORRIS,
Chairman
IAN W. CRAIG
Commissioner

By the Motor Carrier Commission:
JOHN KOSOWICK
Secretary to the Commission

PROVINCE OF BRITISH COLUMBIA
MOTOR CARRIER COMMISSION

8-86

In the Matter of the *Motor Carrier Act*, R.S.B.C. 1979, Chapter 286, and Amendments Thereto and Regulations Thereunder; and in the Matter of the *Motor Vehicle Transport Act*, R.S.C. 1970, Chapter M-14; and in the Matter of Application No. 1333/85 of Kleysen Transport Ltd.

Before: GERARD M. MORRIS, *Chairman*, and IAN. W. CRAIG, *Commissioner*, and GEORGE MUSSALLEM, *Commissioner*.

Dated the 10th day of February 1986.

ORDER

The application of Kleysen Transport Ltd. (the applicant), published as No. 1333/85, for alteration to its existing licence authority, came before the Motor Carrier Commission for hearing on Monday, February 3, 1986, in Burnaby, B.C.

The application for a somewhat restricted general freight clause (which would allow the deletion of a number of specified individual clauses from the applicant's existing Conditions of Licence) and increased authority to transport wood products, was perceived to be "expansionary" yet at the same time "housekeeping" in nature.

The applicant was represented at the hearing by Counsel, Mr. R. W. Macdonald. Three objecting carriers, although having filed their fifty dollar security deposits, formally withdrew their opposition to the application prior to the commencement of the hearing. Northern Industrial Carriers Ltd. and Intermountain Transport Ltd. withdrew unconditionally, while Public Freightways Ltd. withdrew its opposition subject to the application being amended in a manner that would restrict the applicant from providing any additional freight services to Vancouver Island. Consequently, no objecting carriers participated in the hearing, and the case presented on behalf of the applicant was unopposed by qualified objectors.

Counsel for the applicant called twelve witnesses to testify at the hearing, including two corporate witnesses and ten shippers. Mr. T. A. Kleysen, vice-president of marketing for the applicant company, gave a brief resume of its history and growth since it commenced business under his grandfather fifty years ago, and commented to some extent on its operation, which he said has grown considerably because it was based on a problem-solving approach, and a high level of service even for low-grade commodities.

In addition, Mr. Kleysen indicated that his firm, which had already purchased equipment to the value of $750,000 from B.C. suppliers for use in other areas would, if the application were granted, make a significant contribution to the B.C. economy through the basing of more equipment in this province, the procurement of terminal facilities, and the hiring of more employees, including lease operators, which would be increased from the present 10 to 25 in number, optimistically speaking, within a year, or pessimistically speaking, within two years.

Mr. J. S. Jakab, sales manager for the applicant company, generally reviewed the contents of a number of the ninety-odd letters of support filed with the application, and commented from his own personal knowledge on the tonnages involved and the service requirements of the individual shippers who had supported the application. In addition, a six-minute video presentation was shown with respect to the company, its operations, facilities and equipment, much of it custom designed to meet the individual needs of its clients.

The ten shipper witnesses, some of them representing substantial users of freight services, generally testified as to the tonnages and frequency of service they would require, the problems they were experiencing in having their shipping needs fulfilled at this time, and their satisfaction with the high level of service provided to them by the applicant in the areas it is licensed presently to serve. The witnesses testified in most cases to a substantial volume of freight that they controlled, both coming into the province or vice versa, as well as intra and extra provincial, much of which would be offered to the applicant if the application were granted.

As no qualified objectors were in attendance, and none were represented at the hearing, there was no interrogation of the witnesses presented, except by Commission members, who agreed with Counsel for the applicant that although some 30 to 40 additional witnesses had been alerted by him and were prepared to attend the hearing, further witnesses would not add materially to the information already available. No further witnesses were called.

The Commission, after carefully reviewing all of the testimony at the hearing, the exhibits filed, and arguments presented by Counsel for the applicant, is of the view that a good case has been made by the applicant, which is a respected and capable carrier, ready, willing and able to provide the service applied for. The Commission finds that significant public support has been submitted and that granting the application would be in the public interest.

Accordingly, the Motor Carrier Commission orders that the application of Kleysen Transport Ltd., published as No. 1333/85, as amended at the hearing, be and it is hereby granted in the terms set out in Exhibit "A" attached to this Order.

It is further ordered that all of those parties which filed $50 security deposits, both the applicant and the objectors which withdrew, be and they are hereby assessed $50 costs, such costs to be set off against the security deposits filed with the Motor Carrier Branch pursuant to Regulations 4.15 and 4.16 of the Regulations Respecting Motor Carriers.

Approved by:
GERARD M. MORRIS,
Chairman
IAN W. CRAIG
Commissioner
GEORGE MUSSALLEM
Commissioner

By the Motor Carrier Commission:
JOHN KOSOWICK
Secretary to the Commission

EXHIBIT "A"

Kind of Freight:	*For Whom to be Carried:*	*Area, District or Territory to be Served:*
1. General freight excluding: groceries & food stuffs, fruit & vegetables, commodities requiring refrigeration, explosives, household goods, upholstered furniture, luggage, footwear, drygoods, petroleum products in bulk, bulk liquids, minimum load per shipment 40,000 lbs. (18 144 kg) (charter trips).	One individual or company only at any one time.	From the B.C./Alberta or B.C./U.S. border, delivered to any point in British Columbia excluding Vancouver Island, or vice versa.
2. Lumber, plywood, veneer (charter trips).	One individual or company only at any one time.	From any point in British Columbia delivered to points in Licence Districts #14, 14A and 15.
3. Livestock feed ingredients, feed grain products, alfalfa products, feeds, seeds, grain screenings, fertilizers, fertilizer ingredients, fishmeal (charter trips).	One individual or company only at any one time.	(a) From points in Licence District 21 delivered to points in Licence Districts 6, 7, 14, 14A and 15. (b) From points in Licence Districts 14, 14A and 15 delivered to points in Licence Districts #2, 5, 6, 7 & 8, or vice versa.
4. General freight (charter trips).	One individual or company only at any one time.	From the B.C./Alberta border transported to the B.C./U.S. border, in transit, as a corridor operation only; or vice versa.
5. Steel and pipe. (minimum load per shipment no less than 68,000 lbs. (30 844 kg) (charter trips).	One individual or company only at any one time.	From the B.C./Alberta border delivered to all points in British Columbia.
6. Salt (restricted to bulk shipments) (charter trips).	One individual or company only at any one time.	From the B.C./Alberta border or the B.C./U.S. border delivered to all points in B.C. or vice versa.
7. Sugar, molasses, syrups (not in bulk) (charter trips).	B.C. Sugar Refinery Ltd.	From points in Licence Districts #14, 14A and 15 transported to the British Columbia/Alberta border.
8. Snowmobiles, accessorial parts and associated clothing (charter trips).	Polaris Industries Inc.	From the B.C./Alberta border delivered to points in British Columbia or vice versa.
9. Aluminum panels and window frames (charter trips).	Indal Wall Systems Ltd.	From the B.C./Alberta border delivered to points in British Columbia or vice versa.
10. Marble aggregates dolomite and fertilizer filler (charter trips).	Nanome Aggregates Inc.	From the B.C./U.S. border delivered to points in British Columbia or vice versa.
11. Machinery and equipment manufactured by the Ford Motor Co. (charter trips).	Ford Motor Co.	From the B.C./Alberta and the B.C./U.S. borders delivered to points in British Columbia or vice versa.

Restrictions:

Re Clauses 1, 5, 6, 7, 8, 9, 10, 11:

Pick-up of freight in British Columbia for delivery in British Columbia *NOT* permitted.

Re Clause 4:

Freight shall neither be picked up nor delivered to any point in British Columbia.

PROVINCE OF BRITISH COLUMBIA
MOTOR CARRIER COMMISSION

11-86

In the Matter of the *Motor Carrier Act*, R.S.B.C. 1979, Chapter 286, and Amendments Thereto and Regulations Thereunder; and in the Matter of the *Motor Vehicle Transport Act*, R.S.C. 1970, Chapter M-14; and in the Matter of Application No. 1388/85 of Ghost Lines Transport Ltd., Kimberley, B.C.

Before: G. M. MORRIS, *Chairman*, and GEORGE MUSSALLEM, *Commissioner*.

Dated the 11th day of February 1986.

ORDER

Whereas the Motor Carrier Commission, after considering the application of Ghost Lines Transport Ltd. (the applicant), published as No. 1388/85, for one new Limited Freight-vehicle Licence, granted the application on October 23, 1985, subject to compliance by the applicant with the usual mandatory pre-licensing requirements; and

Whereas before the mandatory pre-licensing requirements had been complied with, the Commission was advised by letter, which was received on January 7, 1986, that the applicant wished to withdraw the application.

Accordingly, the Motor Carrier Commission orders that its previous decision in this matter of October 23, 1985, granting the application of Ghost Lines Transport Ltd., published as No. 1388/85, be and it is hereby rescinded, and any rights or privileges conferred on the said applicant by reason of the application having been granted be and they are hereby extinguished.

Approved by:
G. M. MORRIS,
Chairman
GEORGE MUSSALLEM
Commissioner

By the Motor Carrier Commission:
JOHN KOSOWICK
Secretary to the Commission

PROVINCE OF BRITISH COLUMBIA
MOTOR CARRIER COMMISSION

15-86

In the Matter of the *Motor Carrier Act*, R.S.B.C. 1979, Chapter 286, and Amendments Thereto and Regulations Thereunder; and in the Matter of *Motor Vehicle Transport Act*, R.S.C. 1970, Chapter M-14; and in the Matter of Application Nos. 1095/85 and 1095A/85 of Kent Jacobsen *et al*. (D/B/A Vernon Taxi (T.B.I.))

Before: GERARD M. MORRIS, *Chairman*, and GEORGE MUSSALLEM, *Commissioner*.

Dated the 25th day of February 1986.

ORDER

The application of Kent Jacobsen *et al*. d/b/a Vernon Taxi, published as Nos. 1095/85 and 1095A/85, came before the Motor Carrier Commission for hearing in Vernon, B.C., on Tuesday, February 18, 1986.

Vernon Taxi Inc. (incorporated on May 1, 1985), the applicant sought licence authority by way of the applications being heard to provide a taxi cab service for business originating in Vernon, B.C., and within a distance of 25 road miles from its boundaries, to any point in B.C. or boundary thereof, when the trip is destined to a point outside the province.

The applicant was represented at these proceedings by Counsel, Mr. R. J. Gillespie, and the sole objector, Irish Creek Management Inc., which does business as Capitol Taxi and Valley Taxi, the only taxi service licensed in the Vernon area, was represented by Counsel, Mr. F. W. Cole.

Only two witnesses were called by the applicant through Counsel, one being Mr. J. A. Broadfoot, its president, and the other, the manager of the hotel where the hearing was taking place, who merely confirmed that the services provided by the applicant (limited to the confines of the City of Vernon) were preferred by some of his staff because of a faster response time.

In addition, Counsel for the applicant made a brief opening address, asked some questions of the objector's witnesses, and referred in his closing argument to the support material filed earlier, which consisted of petitions as well as some 200 signed documents of support, a number of which were provided by members of the business community. He stressed the need for a competitive service to cut down on delays in responding to calls, and generally a better service for the entire area.

Counsel for the objector called a number of witnesses, among them Mr. Manfred Zimmerman, president of Irish Creek Management Inc., which owns and operates both Capitol Taxi and Valley Taxi. The other witnesses were drivers and users of the service. The users generally expressed satisfaction with the service provided. Some of the driver witnesses gave testimony which alleged that the applicant had been indulging in unfair practices by monitoring their radio frequencies and "scooping" calls before the taxi called could pick the passengers up.

The Commission recognizes that within the testimony of witnesses called by the objectors and indeed in the testing of the evidence which was presented by a principal witness for the applicant, there were questions raised which went directly to the fitness of the applicant to hold authority under the *Motor Carrier Act*. However, in the Commission's view, the evidence was not conclusive enough to cause the Commission to base its decision entirely on the concerns it had in this respect.

The Commission has on a number of occasions stated its strong belief that where it is in the public interest, competition should exist. The Commission believes that competition tends to improve the quality of service received by the public and to increase the efficiency of the competing organizations.

After very deliberate and careful consideration of all of the information made available to it prior to the hearing, during the hearing and subsequent thereto, including the fact that there has been an improvement in the appearance of equipment and the nature and the character of the service since the applicant received a licence from the City of Vernon, the Commission believes that the advantage of competition should be brought to the entire area.

The Commission orders, therefore, that the applications published as Nos. 1095/85 and 1095A/85 filed on behalf of Vernon Taxi Inc. to operate eight Limited Passenger Vehicles (Taxis), be and they are hereby granted.

Because of the Commission's concerns about some of the allegations made against the applicant, and some admissions by the applicant, its operations shall be subject to monitoring by the Superintendent of Motor Carriers for a period of one year from the date of this Order, and any infractions of the *Motor Carrier Act* and/or authority granted to the applicant will be dealt with very harshly by the Commission if such occur.

It is further ordered that the security deposits filed on behalf of the applicant and by the objector be refunded.

Approved by:

GERARD M. MORRIS
Chairman

GEORGE MUSSALLEM
Commissioner

By the Motor Carrier Commission:

JOHN KOSOWICK
Secretary to the Commission

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